

In the Matter of)
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Numbering Resource Optimization) CC Docket No. 99-200

DISCUSSION

New York has had a long-standing interest in numbering matters as is reflected in its current Petition before the Commission¹ seeking recognition of a previous New York Public Service Commission (PSC) Order of March 17, 2000, that required state-wide number pooling for all rate centers in New York.² The PSC's March 17, 2000 Order was a follow up to a PSC Order of April 29, 1999, wherein the PSC directed a geographic split for the Long Island area code, and also determined that two other area codes in the State were in jeopardy.³ Thereafter, the PSC worked toward solving the number scarcity in New York by issuing both the March 17, 2000 Order, and an Order issued December 13, 2000, in which the PSC established procedures for reclaiming numbering resources which have not been activated.⁴

¹ In the Matter of Petition for Order Marking All Rate Centers in New York Mandatory for Number Pooling, Petition of the New York State Department of Public Service For Mandatory Number Pooling, Docket No. 99 - 0200 (dated August 26, 2005), available on the Commission's web site at <http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518185900>. See Fifth FNPRM n.20.

² Case 98-C-0689 - Proceeding on Motion of the Commission Pursuant to Section 97(2) of the Public Service Law to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for Making Additional Central Office Codes and/or Area Codes Available in Areas of New York State When and Where Needed, Order Instituting State-Wide Number Pooling and Number Assignment and Reclamation Procedures (issued March 17, 2000).

³ Case 98-C-0689 - Proceeding on Motion of the Commission Pursuant to Section 97(2) of the Public Service Law to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for Making Additional Central Office Codes and/or Area Codes Available in Areas of New York State When and Where Needed, Opinion and Order Directing Geographic Split of the 516 NPA (issued April 29, 1999).

⁴ Case 98-C-0689 - Proceeding on Motion of the Commission Pursuant to Section 97(2) of the Public Service Law to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for Making Additional Central Office Codes and/or Area Codes Available in Areas of New York State When and Where Needed, Order Adopting Procedures and Standards For Reclamation of Central Office Codes (issued December 13, 2000).

Section 251(e)(1) of the Communications Act of 1934, as amended specifically allows the Commission to delegate to the States jurisdiction over numbering administration.⁵ Accordingly, there is no legal bar preventing the Commission from delegating mandatory number pooling authority as it has proposed in the Fifth FNPRM.

In general, States are in the best position to determine when thousands-block number pooling should be implemented within their borders. Because of their knowledge of local conditions and any unique characteristics of a given NPA, States can best weigh the costs and benefits of requiring pooling for their local carriers. The current process already recognizes that the States must play an important role because it requires the States to initiate the petition at the Commission. Delegation would streamline the process by removing the additional layer of Commission action and allow the States to resolve the issue in the first instance as it becomes apparent to a State that action promoting conservation of numbers is necessary in a given NPA. Because the States are in the best position to judge when such relief is warranted within their respective borders, the Commission should delegate to them number pooling authority.

Should the Commission delegate number pooling authority, the NYDPS does not believe that the Commission should mandate three years as an exhaust criterion for allowing a state to implement number pooling.⁶ Although a three year exhaust date may often be a good indication that pooling relief is necessary, the Commission should not preclude states from acting sooner because the three year exhaust is only a forecast that is subject to change with the next VoIP application or other technological innovation.

In the event that the Commission does not delegate number pooling authority to the states, it should not continue to review individual state petitions on a case-by-case basis.⁷ Considering the rapid development of the competitive market for telecommunications and related applications using NANP numbers, the Commission is likely to see an increase in the number of petitions filed seeking permission to require number pooling in different NPAs. As more state petitions are filed, the Commission runs the risk of delay in providing relief to those states. By their very nature, time is of the essence for such petitions, however, and a delay of a few months can make

⁵ 47 U.S.C. § 251(e)(1).

⁶ See Fifth FNPRM at ¶17.

⁷ See id.

the difference between extending the life of the available numbers in an NPA, or having to implement a new area code.⁸

Accordingly, if the Commission does not delegate pooling authority to the States, the NYDPS is not opposed to the Commission's alternative proposal of the Commission ordering mandatory pooling in all the country's NPAs using a phased implementation schedule.⁹ Considering the proven success of mandatory pooling as a conservation measure,¹⁰ the NYDPS supports requiring all NPAs to employ thousands-block pooling to wean carriers away from having access to 10,000 blocks of numbers at any given time. Should the Commission choose such an option, the NYDPS also is not opposed to allowing the current rural carrier exemption to continue.¹¹

CONCLUSION

For all the foregoing reasons, the Commission should delegate to the States the authority to require thousands-block number pooling for all numbering plan areas at their discretion. Alternatively, the Commission should release its own Order mandating thousands-block number pooling on a phased implementation schedule for all NPAs not currently required to pool.

Respectfully submitted,

⁸ Although the Commission's Order and Fifth FNPRM granted the petitions of certain states seeking similar relief, the Commission took no action on New York's petition. Thus, mandatory pooling still does not exist in portions of New York State despite the State's Public Service Commission having ordered such pooling state-wide more than six years ago.

⁹ See id.

¹⁰ See Fifth FNPRM at ¶ 3.

¹¹ Currently, rural ILECs are specifically exempted from pooling until they have received an LNP request. See In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Telephone Number Portability, CC Docket Nos. 99-200, 96-98 and 95-116, Fourth Report And Order and Fourth Further Notice Of Proposed Rulemaking (Released June 18, 2003).

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